

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT GREENEVILLE

JOSHUA ALLEN EWEN,	)	
	)	
Plaintiff,	)	
	)	No.: 2:23-CV-145-KAC-CRW
v.	)	
	)	
PAULA DEEN’S FAMILY KITCHEN, et al.,	)	
	)	
Defendants.	)	

**ORDER ADOPTING REPORT & RECOMMENDATION**

This civil action is before the Court on United States Magistrate Judge Cynthia R. Wyrick’s “Report and Recommendation” (“Report”) [Doc. 12]. On November 7, 2023, Plaintiff Joshua Allen Ewen filed a pro se “Complaint” [Doc. 2] and a “Motion for Leave to Proceed in forma pauperis” [Doc. 1], seeking to assert claims against Defendant Paula Deen’s Family Kitchen. On November 8, 2023, Judge Wyrick screened that Complaint under the Prison Litigation Reform Act, 28 U.S.C. § 1915(e) (“PLRA”) and concluded that the Complaint failed to “set forth a viable claim” [Doc. 4 at 3]. Nonetheless, Judge Wyrick permitted Plaintiff “to file an amended complaint that sets forth a sufficient factual basis for his claims” [*Id.* at 4]. Since then, Plaintiff has filed multiple notices including additional facts [*See* Docs. 5-10]. He also filed an “Amended Complaint” that added Hey Ya’ll LLC as a Defendant [Doc. 11]. In the Report, Judge Wyrick screened the Amended Complaint under the PLRA and considered all of Plaintiff’s prior filings to determine whether any claim could proceed [*See* Doc. 12 at 1].

The Report recommends (1) “that Plaintiff’s claim of religious discrimination be permitted to proceed;” (2) “that his claims of racial and gender discrimination be dismissed without prejudice;” and (3) “that his defamation claim be dismissed with prejudice” [Doc. 12 at 8]. No

Party objected to the Report, and the time to do so has passed. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

After reviewing the record, the Court **ACCEPTS** and **ADOPTS** the Report [Doc. 12] under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(2). Under 28 U.S.C. § 1915(e), the Court **DISMISSES without prejudice** Plaintiff's racial and gender discrimination claims and **DISMISSES with prejudice** Plaintiff's defamation claim. Plaintiff's religious discrimination claim may proceed.

The Clerk **SHALL** send Plaintiff service packets (a blank summons and USM 285 form) for Defendants Paula Deen's Family Kitchen and Hey Ya'll LLC. Plaintiff **SHALL** complete the service packets and return them to the Clerk's Office **by October 21, 2024**. Upon receipt, the Clerk will sign and seal the summons and forward them to the U.S. Marshal for service. *See* Fed. R. Civ. P. 4(c)(3). **If Plaintiff fails to timely return complete services packets for Defendants, the Court will dismiss this action under Rule 41(b) for failure to prosecute and comply with a Court order.** *See* Fed. R. Civ. P. 41(b).

SO ORDERED.

  
KATHERINE A. CRYTZER  
United States District Judge